



BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XA832

Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Missile Launch Operations from San Nicolas Island, CA

AGENCY: National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce.

ACTION: Notice of issuance of a Letter of Authorization.

SUMMARY: In accordance with the Marine Mammal Protection Act (MMPA), as amended, and implementing regulations, notification is hereby given that a letter of authorization (LOA) has been issued to the Naval Air Warfare Center Weapons Division, U.S. Navy (Navy), to take three species of seals and sea lions incidental to missile launch operations from San Nicolas Island (SNI), California, a military readiness activity.

DATES: Effective December 1, 2011, through November 30, 2012.

ADDRESSES: The LOA and supporting documentation are available for review by writing to P. Michael Payne, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service (NMFS), 1315 East West Highway, Silver Spring, MD 20910 or by telephoning one of the contacts listed below (FOR FURTHER INFORMATION CONTACT). Documents cited in this notice may be viewed, by appointment, during regular business hours, at the aforementioned address and at the Southwest Regional Office, NMFS, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802.

FOR FURTHER INFORMATION CONTACT: Michelle Magliocca, Office of Protected Resources, NMFS, 301-427-8401, or Monica DeAngelis, NMFS, 562-980-3232.

SUPPLEMENTARY INFORMATION:

Background

Section 101(a)(5)(A) of the MMPA (16 U.S.C. 1361 et seq.) directs NMFS to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and regulations are issued. However, for military readiness activities, the National Defense Authorization Act (Public Law 108-136) removed the “small numbers” and “specified geographical region” limitations. Under the MMPA, the term "take" means to harass, hunt, capture, or kill, or to attempt to harass, hunt, capture, or kill marine mammals.

Authorization may be granted for periods up to 5 years if NMFS finds, after notification and opportunity for public comment, that the taking will have a negligible impact on the species or stock(s) of marine mammals and will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant). In addition, NMFS must prescribe regulations that include permissible methods of taking and other means of effecting the least practicable adverse impact on the species and its habitat and on the availability of the species for subsistence uses, paying particular attention to rookeries, mating grounds, and areas of similar significance. The regulations must include requirements for monitoring and reporting of such taking.

Regulations governing the taking of northern elephant seals (Mirounga angustirostris), Pacific harbor seals (Phoca vitulina richardsi), and California sea lions (Zalophus californianus),

by harassment, incidental to missile launch operations at SNI, were issued on June 2, 2009, and remain in effect until June 2, 2014 (74 FR 26580, June 3, 2009). For detailed information on this action, please refer to that document. The regulations include mitigation, monitoring, and reporting requirements for the incidental take of marine mammals during missile launches at SNI.

Summary of Request

On November 10, 2011, NMFS received a request for an LOA renewal pursuant to the aforementioned regulations that would authorize, for a period not to exceed 1 year, take of pinnipeds, by harassment, incidental to missile launch operations from San Nicolas Island, CA.

Summary of Activity and Monitoring Conducted During 2010-2011

The Navy's monitoring report covers an extended period of time because NMFS issued a modified LOA in December 2010, that superseded the previous LOA issued in June 2010. As described in the Navy's monitoring report, the missile launch operations conducted by the Navy during this time period were within the scope and amounts authorized by the 2010-2011 LOA, and the levels of take remain within the scope and amounts contemplated by the final rule and detailed in the 2010-2011 LOA.

Planned Activities and Estimated Take for 2011-2012

During 2011-2012, the Navy expects to conduct the same type and amount of launches identified in the 2010-2011 LOA. Therefore, NMFS is authorizing the same amount of take authorized in 2010.

2010-2011 Monitoring

The Navy conducted the monitoring required by the 2010-2011 LOA and described in the Monitoring Plan, which included acoustic monitoring of missile launches and visual monitoring

of pinnipeds. The Navy submitted their 2010-2011 Monitoring Report, which is posted on NMFS' website (<http://www.nmfs.noaa.gov/pr/permits/incidental.htm>), within the required timeframe. The Navy summarized their 2010-2011 monitoring efforts and results (beginning on page 11 of the report), which included 19 acoustic recordings and video recordings of more than 500 animals.

Authorization

The Navy complied with the requirements of the 2010-2011 LOA and NMFS has determined that there was no evidence of pinniped injuries or mortalities related to vehicle launches from SNI. The Navy's activities fell within the scope of the activities analyzed in the 2009 rule, and the observed take did not exceed that authorized in the 2010-2011 LOA. NMFS has determined that this action continues to have a negligible impact on the affected species or stocks of marine mammals on SNI. Accordingly, NMFS has issued an LOA to the Navy authorizing the take of marine mammals, by harassment, incidental to missile launch activities from SNI. The provision requiring that the activities not have an unmitigable adverse impact on the availability of the affected species or stock for subsistence uses does not apply for this action.

Dated: November 23, 2011

P. Michael Payne
Acting Deputy Director
Office of Protected Resources
National Marine Fisheries Service